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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,058	03/13/2001	Wilhelmus Jacobus Van Gestel	PHN-17.552	1079

24737 7590 04/27/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

NGUYEN, HUY THANH

ART UNIT PAPER NUMBER

2616

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,058

Applicant(s)

VAN GESTEL, WILHELMUS
JACOBUS

Examiner

HUY T NGUYEN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the Abstract contains two separate paragraphs. Correction is required. See MPEP § 608.01(b).
2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. Applicant is requested to provide the section headings (f) to (i) in the specification .

Claim Objections

4. Claims 1-9 are objected to because of the following informalities: See examiner comment below. Appropriate correction is required.

In claims 1-9, the parenthetical numeral references in claims should be deleted.

In claim 7, lines 9 and 11 , there is no antecedent basis for the "first pre-defined area" and the "second pre-defined area"

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-6 direct information stored on a medium . Since the stored information do not provide any functional interrelationship to the medium to control the medium to access and read the information from the medium , or impart to any software or hardware structural components to provide certain function that is processed by a computer the information do not make them statutory.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (5,914,928).

Regarding claim 1, Takahashi discloses a method of recording information, particularly real time video or audio, on a recording disc (Figs. 11 and 12) of the type having a multitude of concentric substantially circular recording tracks divided into blocks, particularly an optical disc, which recording tracks together define a recording area of the disc, which recording area includes at least a freely accessible addressable user area (column 12 and 25);

wherein the information to be recorded is divided into data packets having the size of a block, wherein successive data packets are recorded in different blocks (45) of said user area (column 12, column 13, lines 15-15));and

wherein, if a block appears to be defective, a replacement recording for the relevant data packet is effected in another part of said user area (Fig. 12, column 14)).

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Regarding claims 2, Takahashi teaches a method as claimed in Claim 1, wherein, prior to the recording session, a given part (RW) of said freely accessible addressable user area (41) is reserved as a replacement zone (fig. 12, column 14, lines 37-45).

Regarding claim 3, Takahashi further teaches a method as claimed in Claim 1, wherein, during the recording session, an extra part of said freely accessible addressable user area (41) is reserved as a replacement zone, if necessary (fig. 12, column 14, lines 37-45, column 15, lines 1-35).

Regarding claim 5, Takahashi teaches if a defective block is encountered during the recording process, a replacement recording is made for a file portion comprising a plurality of successive data packets (Fig. 12, column 15, lines 1-35).

Regarding claim 6, Takahashi teaches a recording apparatus (Fig. 10) adapted to carry out a method as claimed in any one of the Claims 1-5.

Regarding claim 7, Takahashi teaches a recording apparatus (Fig. 10) comprising:

a write control unit adapted to control the write process, and an allocation manager adapted to determine at which location of a disc a write operation is to be effected;

wherein the allocation manager is adapted to reserve two different areas for recording in a free part of the user area, a first area being reserved for normal recording and a second area being reserved for replacement recording;

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the allocation manager being adapted to inform the write control unit about these reserved areas ;

the write control unit being adapted to effect the normal recording in the first pre-defined area (data area), if defective blocks are encountered, time interval effect a replacement recording for a file portion having the size of a plurality of blocks in the second pre-defined area (replacement area(RW) and, upon completion of the replacement recording, to proceed with normal recording in the first pre-defined area (NW) (column 9, lines 50 to column 10, line 26, column 18, lines 60-68, Figs 4-6,8).

9. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ko (6,367,038).

Regarding claim 1, Ko discloses a method of recording information, particularly real time video or audio, on a recording disc (Fig. 2) of the type having a multitude of concentric substantially circular recording tracks divided into blocks , particularly an optical disc, which recording tracks together define a recording area of the disc, which recording area includes at least a freely accessible addressable user area (column 4);

wherein the information to be recorded is divided into data packets having the size of a block, wherein successive data packets are recorded in different blocks (45) of said user area (column 5 lines 40-60),

wherein, if a block appears to be defective, a replacement recording for the relevant data packet is effected in another part of said user area (column 4).

Regarding claims 2, Ko teaches prior to the recording session, a given part (replacement area RA) of said freely accessible addressable user area (41) is reserved as a replacement zone (column 4).

Regarding claim 3, Ko further teaches during the recording session, an extra part of said freely accessible addressable user area (41) is reserved as a replacement zone, if necessary (column 7, lines 55-60).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ko in view of Yamamuro (EP 0798716).

Regarding claim 5, Ko fails to specifically teach that if a defective block (45*) is encountered during the recording process, a replacement recording is made for a file portion comprising a plurality of successive data packets.

Yamamuro teaches a recording apparatus having a control means for controlling a recording means recording replacement blocks of a defective block is encountered during a recording process (column 15, line 1-29).

It would have been obvious to one of ordinary skill in the art to modify Ko with Yamamuro by using a control means as taught by Yamamuro with the apparatus of Ko for recording replacement block when a defective block is encountered thereby enhancing the capacity of Ko apparatus in correcting the error of the signal during recording.

Allowable Subject Matter

12. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gotoh teaches a recording/ reproducing apparatus for correcting a defective sector during a recording process.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (571) 272-7375. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY T NGUYEN
PRIMARY EXAMINER